

UNITED STATES DISTRICT COURT

District of Delaware

UNITED STATES OF AMERICA

V.
James Friend
Defendant

ORDER OF DETENTION PENDING TRIAL

Case Number: CR05-73-SLR

In accordance with the Bail Reform Act, 18 U.S.C. § 3142(f), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending trial in this case.

Part I—Findings of Fact

(1) The defendant is charged with an offense described in 18 U.S.C. § 3142(f)(1) and has been convicted of a federal offense state or local offense that would have been a federal offense if a circumstance giving rise to federal jurisdiction had existed that is a crime of violence as defined in 18 U.S.C. § 3156(a)(4). an offense for which the maximum sentence is life imprisonment or death. an offense for which a maximum term of imprisonment of ten years or more is prescribed in _____ *

a felony that was committed after the defendant had been convicted of two or more prior federal offenses described in 18 U.S.C. § 3142(f)(1)(A)-(C), or comparable state or local offenses.

(2) The offense described in finding (1) was committed while the defendant was on release pending trial for a federal, state or local offense.

(3) A period of not more than five years has elapsed since the date of conviction release of the defendant from imprisonment for the offense described in finding (1).

(4) Findings Nos. (1), (2) and (3) establish a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of (an) other person(s) and the community. I further find that the defendant has not rebutted this presumption.

Alternative Findings (A)

X (1) There is probable cause to believe that the defendant has committed an offense for which a maximum term of imprisonment of ten years or more is prescribed in 21 USC §841. under 18 U.S.C. § 924(c).

X (2) The defendant has not rebutted the presumption established by finding 1 that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

Alternative Findings (B)

(1) There is a serious risk that the defendant will not appear.

(2) There is a serious risk that the defendant will endanger the safety of another person or the community.

Part II—Written Statement of Reasons for Detention

I find that the credible testimony and information submitted at the hearing establishes by clear and convincing evidence a preponderance of the evidence. Defendant waived his right to a detention hearing. He was advised that an order would be entered detaining him and that he had the right to have his detention reviewed. Defendant's criminal history begins at age 14. He is presently 23. Between 1996 and his 18th birthday, defendant was charged and convicted on 5 occasions of various offenses including disorderly conduct, resisting arrest, offensive touching, menancing and other similar offenses. As an adult in 2000 defendant was convicted of distribution of a controlled substance within 300' of a park, for which he was found in violation of his probation on that charge 2 times. He pled guilty to possession with intent to deliver and his sentence was to run consecutive with the prior drug offense. These drug offenses were committed in 2002 within 4 months of each other and defendant was sentenced at the same time on both. He has a number of state charges pending dating back to 2003 through 2005 and they include resisting arrest, possession of a non-narcotic scheduled I substance, loitering for drug related activity, assault 3rd, offense touching with bodily fluids. Therefore absent defendant's waiver, the Court finds that there are no conditions or combination thereof that will reasonably assure the safety of the community.

FILED

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U.S. DISTRICT COURT
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Part III—Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

August 16, 2005

Signature of Judicial Officer

Mary Pat Thynge, Magistrate Judge

Name and Title of Judicial Officer

***Insert as applicable: (a) Controlled Substances Act (21 U.S.C. § 801 *et seq.*); (b) Controlled Substances Import and Export Act (21 U.S.C. § 951 *et seq.*); or (c) Section 1 of Act of Sept. 15, 1980 (21 U.S.C. § 955a).**